

REMARKS

In view of the above amendments and following remarks, reconsideration of the outstanding office action is respectfully requested.

Applicants notes that there is currently no allowed linking claim. Claims 12, 17-20 and 22-42 are withdrawn.

The rejection of claims 1-11, 13-16 and 21 under 35 U.S.C. §112 (second paragraph) for indefiniteness is respectfully traversed in view of the above amendments.

The rejection of claims 1-3, 6-11, 13-16 and 21 under 35 U.S.C. §112 (first paragraph) for lack of enablement is respectfully traversed in view of the above amendments and the following remarks.

The claims of the present invention are enabled by the specification as filed. In order for claims to be enabled, the specification, when filed, must contain sufficient information as to enable one skilled in the art to make and use the claimed invention. (Manual of Patent Examining Procedure ("MPEP") 2164.01). As long as the specification discloses at least one method for making and using the claimed invention that bears a reasonable correlation to the entire scope of the claim, the enablement requirement is satisfied. (In re Fisher, 427 F.2d. 833, 839, 166 USPQ 18, 24 (CCPA 1970); MPEP 2164.01(b)). In determining whether a patent application is in compliance with the enablement requirement, the PTO will consider whether one of ordinary skill in the art could practice the invention without undue experimentation. In re Wands, 858 F.2d. 731, 8 USPQ2d 1400 (Fed. Cir. 1988)).

As set out on page 11, lines 6-26, of the present specification, as filed, amino acids having "amino acid identity" refers to a comparison of the amino acids of two polypeptides which, when optimally aligned, have approximately the designated percentage of the same amino acids. Residue positions which are not identical differ by conservative amino

acid substitutions of amino acids having similar chemical properties such as charge or polarity, which are not likely to affect the properties of the protein (Specification, page 11, lines 20-26). Further, as set out in the specification, page 17, line 28 to page 18, line 12, one of ordinary skill in the art, using techniques well known in the art, could make the peptides as claimed. Thus, the present application presents at least one method of making and using the claimed invention, which bears a reasonable correlation to the entire scope of the claims, therefore, the enablement requirement is satisfied and the rejection should be withdrawn.

The rejection of claims 1-3, 6-11, 13-16 and 21 under 35 U.S.C. §112 (first paragraph) for lack of written description is respectfully traversed in view of the above amendments and the following remarks.

The specification as filed satisfies the written description requirement for the claims. In particular, page 18, lines 13-19 fully describes an isolated nucleic acid molecule encoding a Rickettsia felis outer membrane protein. Further, the protein has an amino acid sequence as shown in SEQ ID No:2 (Specification, page 18, lines 25-27). Amino acids having 95% amino acid identity to SEQ ID NO:2 are described on page 11, lines 12-26.

To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the invention at the time the application was filed (Guidelines for the Examination of Patent Applications Under 35 USC 112, P1, Written Description Requirement, 66 Fed. Reg. 1099 (Jan. 5, 2001) ("Written Description Guidelines"). Possession may be shown in a variety of ways including a description of distinguishing identifying characteristics sufficient to show that the applicant was in possession of the invention (Written

Description Guidelines at 1104). An actual reduction to practice is not required (Id.). Further, there is no requirement that the features of the invention must be defined by structure and function (Id.). As detailed above, the claimed invention was described in sufficient detail to meet the written description requirement. Further, the limitations of claim 21 to which the PTO objects are contained in claim 21 as filed. There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed (Written Description Guidelines at 1105). Rejection of an original claim is meant to be a rare occurrence (Id.)

Accordingly, the rejection of the claims for lack of written description is improper and should be withdrawn.

Applicants believe that the above-identified application is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

November 3, 2003

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